

# LEGISLATIVE UPDATE

---

County Clerk's Conference

June 2016

## SEA 17 Domestic Violence Fee and Child Abuse Prevention Fee

---

- Amends IC 33-37-5-12 and is effective 7-1-16
- Adds strangulation to the list of offenses for which a convicted person is to pay a child abuse prevention fee of \$100
- Amends IC 33-37-5-13 and is effective 7-1-16
- Adds strangulation to the list of offenses for which a convicted person to pay a domestic violence prevention and treatment fee of \$50.

## SEA 61 - Elections

---

- Amends IC 3-10-1-19 and IC 3-11-2-8 and is effective 3-21-2016 for instructions to be placed on the ballot or posted in the voting booth.
- Amends IC 3-11-2-10 and is effective 3-21-16 and modifies the instructions for voting a straight party ticket when there at-large offices such as county council, city common council, town council or township board on the ballot.
- Adds IC 3-11-2-12.4 for elections where more than one candidate may be elected to office. Placement of the ballot for candidates where more than one candidate may be elected to office.

## SEA 67 – Supplemental Distributions of Local Income Tax

---

- Amends IC 6-3.6-9-15. Before June 1, 2016, the county auditor shall distribute to each taxing unit an amount equal to the taxing unit's allocation amount.
- For Cities, Towns and Counties, 75% of the distribution is restricted to expenditures for transportation projects as outlined in IC 6-3.6-9-15. The remaining 25% is not restricted and may be used by the county, city or town for any governmental purpose. Units other than cities, towns or counties have no restrictions on their distribution from the special LOIT.

## SEA 81 - Courts

---

- Effective 7-1-16 and amends IC 33-23-3-3 and adds subsection (b) that “a senior judge appointed to serve in a county that has (1) a probate court; (2) a circuit court; or (3) a superior court may with the consent of the probate court judge, circuit court judge, or any judge of a superior court in the county, sit as judge of the consenting judge’s court in any matter as if the senior judge were the elected judge or appointed judge of the court.”

## SEA 81 - Courts

---

- Effective 7-1-16 and adds a new chapter under IC 33-38-15.2 on Judges Pro Tempore
- “A judge pro tempore serving a county that has (1) a probate court; (2) a circuit court; or (3) superior court judge may, with the consent of the probate court judge, circuit court judge, or any judge of a superior court, sit as the judge of the consenting judge’s court in any matter as if the judge pro tempore were the elected judge or appointed judge of the court. “

## SEA 81 – Courts (cont.)

---

- “ A judge pro tempore may serve as a judge of the court regardless of whether the appointed or elected judge of the court is present and available in the building that contains the court.
- Amends IC 33-42-4-1 for the administration of oaths for Justices and Judges of courts and they may now administer oaths anywhere in Indiana.

## SEA 126 – Political Subdivision Information on the Internet

---

- Amends IC 5-14-3.8-3 Effective January 1, 2017
- A listing of expenditures specifically identifying those for personal services; other operating expenses or total operating expenses and debt service.
- A listing of fund balances, specifically identifying balances in funds that are being used for accumulating money for future capital needs.

## SEA 126 – Political Subdivision Information on the Internet (Cont.)

---

- Adds a new chapter: IC 5-14-3.9 effective July 1, 2016
- This chapter only applies to a political subdivision that has an Internet website.
- DLGF shall publish an annual summary of each political subdivision on Gateway.
- The political subdivision must prominently display on the main Internet Web page of the political subdivision's web site the link to the Gateway website.

## SEA 126 – Political Subdivision Information on the Internet (Cont.)

---

- DLGF shall determine the information to be disclosed in the summary and may include:
  - Information disclosed under IC 5-14-3.8
  - Approximate number of full-time and part-time employees
  - Outstanding indebtedness and interest paid on indebtedness
  - Disbursements
  - Assessed valuation and tax rates
  - Revenue for all sources

DLGF shall determine the form of the information

## SEA 148 – PERF Defined Contribution Plan

---

- Effective July 1, 2016
- Amends IC 5-10.3-7-1.1 to state that an individual as defined in section (a) who separates from employment with a political subdivision and later returns to employment with the political subdivision, having had an opportunity to make an election is not entitled to a second opportunity to make an election under this section.
- Adds a new section, IC 5-10.3-7-4.3, that allows a member of the defined contribution plan may purchase and claim years of service credit in the fund, subject to certain requirements.

## SEA 148 – PERF Defined Contribution Plan (cont.)

---

- Requirements for purchase of years of service credit:
  - The member has at least one (1) year of credited service in the fund
  - The member has at least ten (10) years of credited service in a covered position in the fund before the member may claim the years of service credit.
  - After acquiring one (1) year of credited service in the fund and before the member retires, the member must make the following contributions:
    - Contributions that are equal to the product of the following
      - The member's salary at the time the member makes a contribution for service credit
      - A percentage rate, as determined by the actuary of the fund, based on the age of the member and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributed to the service credit purchased.
      - The number of years of service credit that the member intends to purchase.

## SEA 148 – PERF Defined Contribution Plan (cont.)

---

- Requirements for purchase of service credits (cont.)
  - Contributions for any accrued interest at a rate determined by the actuary of the fund for the period from the members initial membership to the date payment is made by the member.

A member who terminates employment before becoming eligible to receive a monthly allowance or who receives a monthly allowance for the same service from another tax supported public employment retirement plan other than under the Federal social security act may withdraw the personal contribution after submitting an application for a refund in a manner prescribed by the INPRS board.

## SEA 148 – PERF Defined Contribution Plan (cont.)

---

- The following apply to the purchased of service credit under this section:
  - The board may allow a member to make periodic payments of the contributions required for the purchase of service credit
  - A member may elect to make a transfer of the vested portion of the members annuity savings account balance attributable to participation in the public employee's defined contribution plan to purchase service credit in the fund.
  - The board may deny an application for the purchase of service credit in the fund in the purchase would exceed limitations under Section 415 of the IRS code.
  - A member may not claim the service credit unless the member has made all the payments required.

## SEA 148 – PERF Defined Contribution Plan (cont.)

---

- A new section is added, IC 5-10.3-12-32 that is effective 7/1/16
- Sec 32 (b) states that if a participating political subdivision adopts an ordinance/resolution, an individual that is a retired member prohibited from making contributions to the fund during a period of reemployment that begins more than 30 days after retiring and is rehired in a full time position that would otherwise be covered by the fund, may be allowed to resume membership in the plan for the period of re-employment.

## SEA 160 – Juvenile Cases

---

- Amends IC 31-30-1-4 and is effective 7-1-16
- For individuals at least 16 years of age **but less than 18 years of age.**
- If the charges listed in IC 31-30-1-4 result in an acquittal or were dismissed or the individual pleads guilty to an offense other than the charges listed, the court having jurisdiction may transfer the jurisdiction to the juvenile court.

## SEA 183 – Foreclosure Mischief

---

- IC 35-43-4-9 is a new section effective 7-1-16
- A person who knowingly or intentionally damages, permanently removes an object from or defaces real property in foreclosure commits foreclosure mischief, a Class B misdemeanor. The offense is a Class A misdemeanor if the damage is \$750 to \$50,000 and a level 6 felony if the loss is over \$50,000.
  - Note: this applies to a security interest in property that is a mortgage, land contract or similar agreement. It is not for security interests such as a mechanic's lien, a tax lien or a lien placed by a homeowner's association unless the property is also subject to foreclosure under a mortgage, land contract or similar security interest.

## SEA 232 – Land Banks

---

- A new chapter is added effective July 1, 2016; IC 36-7-38 Land Banks
- The legislative body may adopt an ordinance establishing a nonprofit corporation as an independent instrumentality exercising governmental functions, whose primary purpose is to manage and improve the marketability of distressed real property located in the territory of the eligible unit.
- The legislative body shall specify the name of the entity and the number of board members.
- The territory of a land bank established by a county is all the territory of the county, except for the territory of any second class city that has established a land bank.

## SEA 232 – Land Banks (cont.)

---

- Section 3 states that the bylaws must require the board to approve purchase, transfer or lease of real property held by the land bank.
- Section 4 states that the land bank is governed by a board of directors of no less than seven or more than nine members.

## SEA 232 – Land Banks (cont.)

---

- Section 9 discusses the mission of the land bank which includes the sale of transfer of properties:
  - For redevelopment that will act as a catalyst for further development
  - That support a comprehensive development plan or strategic plan for neighborhood revitalization
  - That reduce blight in the community
  - That revitalize or stabilize neighborhoods
  - That will be returned to productive, tax paying status
  - That will return to productive uses, including development of green spaces
  - That are available for immediate ownership/occupancy
  - That will be used for affordable housing
  - That will generate operating support for the functions of the land bank

## SEA 232 – Land Banks (cont.)

---

- Section 13 states that within six months after the county has established a land bank, the county will furnish the land bank with a list of real property located in the county for which the county holds a tax sale certificate or tax deed and that is not committed to a redevelopment project or for another reason. The county shall offer to assign the tax sale certificates and convey the real property at no cost to the land bank.
- Section 15 IC 36-1-11 on the sale or disposal of real property does not apply to the sale, transfer or lease of property by the land bank.
- Section 18 states that employees of the land bank are not employees of the county.

## SEA 232 – Land Banks

---

- Section 21 states that the land bank is subject to open door law and public records law.
- Section 22 states that land banks are to be audited by the State Board of Accounts.

## SEA 279 – Petition and Remonstrance

---

- Effective 7-1-2016 and amends IC 6-1.1-20-3.1 and IC 6-1.1-20-3.5 for controlled projects
- Increases the number of signatures required for the petition and remonstrance process to the lessor of **500** signatures or 5% of the registered voters residing within the political subdivision.
- Increases the number of signatures required for a petition requesting the application of the local public question to the lessor of **500** signatures or 5% of the registered voters in the political subdivision.

## SEA 279 – Petition and Remonstrance

---

- Amends the process for the final determination of registered voters to increase the number of signatures from 125 to 525 of registered voters or property owners.
- Amends IC 20-46-1 to allow for the extension of a referendum levy previously approved by the voters of a school corporation. The resolution to extend the referendum levy must be adopted by the school board and approved in a referendum before December 31 of the final calendar year in which the school's previously approved referendum is imposed.

## SEA 300 Appraisalment and Real Estate Brokers

---

- Effective July 1, 2016
- Amends IC 32-33-11-4 that when a lien is enforced and the court shall order the sale, there is no longer a need for appraisals of the property.
- Amends IC 34-54 and IC 34-55 to state that property sold at a Sheriff sale no longer require appraisals prior to sale.

## SEA 310 – Serial Tax Delinquencies

---

- Effective March 24, 2016 and amends IC 6-1.1-24.5-2
- Counties, cities and towns petitioning the court for an order to deliver a tax deed under Serial Tax Delinquencies now may serve the petition on the owner of records and no longer need to serve on persons with substantial interest property interest.
- Current taxes and assessments as well as delinquent taxes and assessments must be paid prior to the court appearance date.

## SEA 321 – Local Government Budgeting

---

- Effective July 1, 2016
- IC 6-1.1-17-0.7 states before July 15 of each year after 2017, DLGF shall provide each political subdivision with an estimate of the maximum property tax rate that may be imposed for each cumulative fund for which a maximum property tax rate is established by law.
- IC 6-1.1-17-3 states in formulating a political subdivision's estimated budget the unit must consider the net property tax revenue to be collected and the estimate of the maximum levy from DLGF under section 0.7.

## SEA 321 – Local Government Budgeting

---

- IC 6-1.1-17-16(k) - Effective 7-1-16 for budgets after 2018, the budget will be certified by December 31 unless the unit is issuing debt in December. For those units issuing debt in December, the budget will be certified by January 15.

## SEA 327 Transparency Portal - Contracts

---

- IC 5-14-3.8-3.5 is effective 7-1-16
- A political subdivision shall scan and upload the digital image of a contract to Gateway during the year that the contract amount to be paid exceeds the lesser of 10% of the political subdivisions property tax levy for that year or \$50,000. The contract is to be scanned and uploaded not later than 60 days after the contract is executed.

## SEA 371 – Probate Matters

---

- Effective March 31, 2016 and amends IC 6-4.1
- Transfers the duties for processing inheritance taxes from the probate court, county assessor and county treasurer to the Department of State Revenue
- The current allocation of the tax remains the same. 92% to the State and 8% to the county of residence of the decedent.

## SEA 372 Deficiency Judgments and Foreclosed Property

---

- Effective upon passage 3/21/16
- Amends IC 24-4.4-2-201 and adds: this section is not intended to provide the owner of real estate subject to the issuance of process under judgment or decree of foreclosure any protection or defense against a deficiency judgment for purposes of borrower protections from a liability that must be disclosed on a specified form required by amendments to a federal rule concerning mortgage disclosures (1) the statutes governing the payoff of and short sales involving consumer credit sales and consumer loans under UCC.

## HEA 1001 – Road Funding

---

- Effective 7-1-16 and amends IC 6-3.5-4 (County Motor Vehicle Excise Tax) and IC 6-3.5-5 (County Wheel Tax)
- Extends the permitted use of the Surtax and Wheel tax to allow the fund to be used for the county's, city's or town's contribution to obtain a grant from the local road and bridge matching grant fund.
- If the county has a transportation asset management plan approved by the Indiana Department of Transportation, there is an increase in the amount that a county may tax.

## HEA 1019 Law Enforcement Recordings

---

- Effective 7-1-16 and amends IC 5-14-3-2 to define Law Enforcement Activity and Law Enforcement Recordings
- A request to inspect or copy of law enforcement recording must be in writing and must identify the recording with reasonable particularity and include the date and approximate time of the activity; the specific location and the name of at least one individual other than the law enforcement officer who was directly involved.
- There are specific provisions when the record may not be inspected or released.

## HEA – 1032 Various Pension Matters

---

- Effective July 1, 2016
- Amends IC 5-10.2-2-3 to state that the investment program referred to as the guaranteed program ends after December 31, 2016 and a new investment fund shall be established referred to as the stable value fund that has preservation of capital as the primary investment objective.
- Adds IC 5-10.2-2-24 to state that after December 21, 2016 a member may not make contributions to the guaranteed program.
- For those members who have designated the guaranteed program, the board shall designate as a substitution, one or more alternative investment programs and this remains until the member makes another allowable designation

## HEA 1032 – Various Pension Matters (cont.)

---

- After December 31, 2016, if a member has allocated all or part of the amount credited to the member to the guaranteed program, the board shall exchange the amount allocated for an equivalent market allocation to the stable value fund.
- The board shall eliminate the guaranteed program on January 1, 2017
- After December 31, 2016 a member may allocate contributions and money invested in the alternative investment program to the stable value fund.

## HEA 1036 – Technical Correction

---

- Effective 3-23-2016 and amends IC 33-37-5-2 to remove the reference to automated record keeping fees as being deposited to the clerk's record perpetuation fund.

## HEA 1047- Motion Clerk

---

- Effective 7-1-16 and adds a new chapter – IC 33-38-15 for a Circuit and Superior Court Motion Clerk Pilot Program.
- The pilot program must make motion clerks available to circuit and superior court judges to assist with the preparation of orders granting or denying complex motions.

## HEA 1081 – Local Income Tax

---

- Effective 1-1-17
- Local Option Income Tax (LOIT) will be known as Local Income Tax
- County Adjusted Gross Income Tax (CAGIT); County Option Income Tax (COIT) and County Economic Development Income Tax (CEDIT) will be called Local Income Tax and will be distributed to property tax relief; school distributions and certified shares; public safety; economic development; and special purpose.

## HEA 1087 – BMV

---

- Effective 7-1-2016 and amends IC 34-28-5 by adding a new section 17.
- New section is effective after December 31, 2016
- In addition to the penalty described under 9-18.1-2-10 and any judgment assessed under IC 34-28-5 a person who violates IC 9-18.1-2-3 shall be assessed a judgment equal to the excise tax under IC 6-6-5 or 6-6-5.5 on the vehicle involved in the violation.
- The clerk shall collect the additional judgment in the amount specified in the court order and transfer the additional judgment to the auditor on a calendar year basis.

## HEA 1102 – Community Corrections

---

- Effective 7-1-2016
- Expands the eligibility to receive grants to county jails that provide evidence based mental health and addiction forensic treatments services and pretrial and diversion programs.
- Requires collaboration among the probation, community corrections, and any other local criminal justice agency that receives the grant for the provision of community supervision.

## HEA 1372 – Officials’ Bonds and SBOA

---

- Effective 7-1-16 adds a new section IC 5-4-1-0.5 defining a contractor to mean an individual or entity that (1) enters into a contractual relationship with a city, town, county or township (2) has a fiduciary relationship with or performs a fiscal responsibility for the city, town, county or township and (3) is not insured, for purposes of the individual or entity’s accounts by the Federal Deposit Insurance Corporation.

## HEA 1372 – Officials’ Bonds and SBOA

---

- Effective 7-1-16
- Amends IC 5-4-1-5.1 to read that bonds are to be filed in the office of the county recorder in the county of office or employment of the officer, official, deputy, employee or contractor.
- Amends IC 5-4-1-18 to include that an individual whose duties include receiving, processing, depositing, disbursing or otherwise have access to funds of the political subdivision and in an amount that exceeds \$5,000 per year.

## HEA 1372 – Officials’ Bonds and SBOA

---

- Amends IC 5-7-1-18 by adding: “the fiscal body of a city, town, or county may be ordinance, or the fiscal body of a township may by resolution authorize the purchase of a name or position schedule bond that: (1) names each individual or position covered under the schedule; (2) is endorsed to include faithful performance to cover the faithful performance of all officers, employees, and contractors described in section (a) who are required to file a bond under this chapter; and (3) includes aggregate coverage sufficient to provide coverage amounts specified for all officers, employees, and contractors described in subsection (a) who are required to file a bond under this chapter.

## HEA 1372 – Officials’ Bonds and SBOA

---

- Amends IC 5-4-1-18 (d) by adding that a crime insurance policy that is endorsed to include faithful performance to cover the faithful performance of; and includes aggregate coverage sufficient to provide coverage amounts specified for; all officers, employees, contractors, commission members and persons acting on behalf of the local government units and required to file a bond under this chapter.
- Amends IC 5-4-1-18(j) that the commissioner of insurance may prescribe the form of the bonds or crime insurance policy, however, a bond or crime insurance policy that does not conform to a form prescribed under this subsection may be used to meet the requirements of this chapter.

## HEA 1372 – Officials’ Bonds and SBOA

---

- Amends IC 5-4-1-18(n) that “(1) each bond must provide coverage in the amount required for the individual covered under the bond for one (1) year (the policy year) commencing on the first day of the: (A) fiscal year of the political subdivisions or governmental unit; or (C) individual’s service in the office or position for which the bond is required. (2) A continuous bond may be used to satisfy the requirement of subdivision (1) if the bond: (A) is renewed on an annual basis for the period during which the individual serves in the office or position for which a bond is required; and (B) provides coverage in the amount required for the individual covered under the bond for each policy year.

## HEA 1372 – Officials’ Bonds and SBOA

---

- IC 5-4-1-18(n) also adds that “However, any claim under a continuous bond used under this subdivision must be brought not later than six (6) years after the occurrence giving rise to the claim. (3) The maximum aggregate liability of the surety or insurer for a single policy year is the penal sum of the bond. In the case of continuous bond, the maximum aggregate liability of the surety or insurer for the entire term that the bond is in effect is the penal sum of the bond and the penal sums of the bond for the five (5) immediately preceding years.”
- Amends IC 5-4-1-19 adds contractor to the faithful performance of the duties including the duty of IC 35-44.1-1-1 and the duty to account properly for all monies and property received by virtue of the officers, employee’s or contractor’s service in the office or position.

## HEA 1372 – Officials’ Bonds and SBOA (cont.)

---

- Effective 7-1-16
- Amends 5-11-5-1(b)(7) to add that: “If (A) the state examiner does not call for an additional exit conference to be held as described in subdivision (4); and (B) the: (i) legislative body of the municipality or entity examined and reported upon provides written notice to the state examiner that the legislative body waives an additional exit conference described in subdivision (5); or (ii) state examiner determines that a final report under subsection (a) must be issued as soon as possible; the final report may be issued earlier than forty-five days after the initial exit conference is held under this subsection.”

## HEA 1372 – Officials’ Bonds and SBOA (cont.)

---

- Amends IC 5-11-5-1(j) to state: “An individual described in subsection (i)(3) or (i)(4) who receives examination workpapers and investigation records described in subsection (i) may divulge the workpapers and records in any action with respect to the misappropriations or diversion of public funds.”
- (Note: (i)(3) is a law enforcement officer, the attorney general, a prosecuting attorney, or any other legal representative of the state in any action with respect to the misappropriation or diversion of public funds. And (i)(4) an authorized representative of the United States.)

## HEA 1372 – Officials’ Bonds and SBOA (cont.)

---

- Effective 7-1-16
- Amends IC 20-26-4-5(a)(3) “any individual whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds: (A) that belong to a school corporation or the governing body of a school corporation; and (B) in an amount that exceeds five thousand dollars (\$5,000) per year; shall give a bond for the faithful performance of the treasurer’s, deputy treasurer’s, or individual’s duties written in an amount determined by the governing body...”